



## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 36541]**

### **Cathcart Rail, LLC—Continuance in Control Exemption—Cornhusker Railroad, LLC**

Cathcart Rail, LLC (Cathcart), a noncarrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Cornhusker Railroad, LLC (CORN), a noncarrier controlled by Cathcart, upon CORN's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in Cornhusker Railroad—Operation Exemption—Trackage in Hall & Adams Counties, Neb., Docket No. FD 36540, in which CORN seeks to operate approximately 27 miles of track consisting of the Grand Island Branch in Hall County, Neb., and the Hastings Branch, in Adams County, Neb.

According to the verified notice of exemption, Cathcart currently controls Bucyrus Industrial Railroad, LLC, a Class III rail carrier in Bucyrus, Ohio, and Belpre Industrial Parkersburg Railroad, LLC, a Class III rail carrier in Ohio and West Virginia.<sup>1</sup>

Cathcart represents that: (1) the rail line to be operated by CORN does not connect with the rail lines of any of the rail carriers controlled by Cathcart; (2) the transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

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<sup>1</sup> See Bucyrus Indus. R.R.—Operation Exemption—Bucyrus Railcar Repair, LLC, FD 36329 (STB served July 25, 2019); Belpre Indus. Parkersburg R.R.—Lease & Operation Exemption—CSX Transp., Inc. FD 36388 (STB served Apr. 3, 2020).

The transaction may be consummated on or after September 19, 2021, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 10, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36541, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on Cathcart's representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Avenue N.W., Suite 800, Washington, DC 20006.

According to Cathcart, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: August 31, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Aretha Laws-Byrum,**

*Clearance Clerk.*